



Montgomery
218 Commerce Street
P.O. Box 4160
Montgomery, AL 36103-4160

Atlanta
4200 Northside Parkway
Building One, Suite 100
Atlanta, GA 30327

(800) 898-2034

BeasleyAllen.com

P. Leigh O'Dell
leigh.odell@beasleyallen.com

April 9, 2020

Honorable Freda L. Wolfson, U.S.D.J.
United States District Court
Clarkson S. Fisher Building & US Courthouse
402 East State Street
Trenton, NJ 08608

**Re: *In Re: Johnson & Johnson Talcum Powder Products Marketing,
Sales Practices and Products Liability Litigation* (MDL No. 2738)**

Dear Judge Wolfson:

On October 29, 2019, the PSC provided the Court with the Certificate of Analysis and supporting documentation for the Johnson's Baby Powder sample from Lot #22318RB that tested positive for chrysotile asbestos and talc fibers. (*See* Exhibit A). The supporting documentation included photomicrographs of the asbestos and talc fibers under TEM and results of analyses by Energy Dispersive X-Ray Analysis (EDXA) and Selected Area Electron Diffraction (SAED), all methods used by Drs. Longo & Rigler when testing historical samples.

The testing was commissioned by the U.S. Food and Drug Administration (FDA) and conducted by AMA Analytical Services, Inc. ("AMA") under the direction of its Laboratory Director, Andreas Saldivar. The PSC writes the Court to complete the record with Mr. Saldivar's sworn testimony on this matter.

As recently as June of 2018, J&J had retained Mr. Saldivar as an expert in state court litigation involving Johnson's Baby Powder. As previously noted, J&J also recommended Mr. Saldivar to the FDA as a talc testing expert with extensive experience in the testing of talcum powder for the presence of asbestos.

Since the PSC provided the Certificate of Analysis and supporting documentation to the Court, J&J has attempted to undermine the validity of AMA's results in the media and in other talcum-powder litigation in state court by stating that the presence of chrysotile was better explained by contamination in the AMA lab, not the presence of chrysotile asbestos in its product.

On March 19, 2020, Mr. Saldivar was deposed regarding the testing of Johnson's Baby Powder by AMA and has confirmed under oath that chrysotile asbestos was found in Johnson's Baby Powder. (*See* Exhibit B). Mr. Saldivar testified:

- The samples in question were delivered to AMA by the FDA (10:19-22);
- AMA was blinded to the product being tested (9:18-10:8);
- AMA Analytical Services, Inc. followed all separation and analytical methodologies prescribed by the FDA (129:10-14);
- AMA stands behind the results of its testing finding chrysotile asbestos in Johnson's Baby Powder (129:2-7);
- The FDA audited AMA's lab in January 2020 after AMA had completed its final reports for the testing and there were no findings of lab contamination with asbestos (32:1-3);
- The FDA has not suggested that the finding of chrysotile asbestos in Johnson's Baby Powder was in any way incorrect or wrong (47:6-17); and
- AMA continues to consult with the FDA regarding the testing of talcum powder and serve as a contract lab to test talc-containing cosmetics for asbestos. (54:19-55:1; 47:18-22).

The PSC will keep the Court apprised of any further developments. The PSC experts' have been provided the additional literature and other materials that have become available since the Court's hearing on the *Daubert* motions. The new literature and evidence support but do not change the opinions of the PSC's experts. Therefore, the PSC does not believe any further discovery or briefing on these matters are necessary at this time but asks the Court to advise the parties if that is not the case.

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Thank you for your consideration of these matters.

Very truly yours,

/s/ P. Leigh O'Dell

P. Leigh O'Dell

/s/ Michelle A. Parfitt

Michelle A. Parfitt

cc: All counsel of record via ECF notification